

US EITI Reporting Improvement Workshop

Facilitator Notes (edited)

Held 11 January 2017

Actions/Discussion needed at February MSG

- Present and decide on voluntary template built off of previous years' template for company reporting
 - The purpose of this reporting template is for disclosure and public information it is NOT for IA reconciliation as it has been in the past. It also would be to pilot a reporting template that ultimately allows companies to be compliant with §1504 regulations and the Securities and Exchange Commission (SEC), the responsible regulator.
 - Section 1504 reporting is necessary to ensure reporting by covered companies meets the requirements of the EITI Standard. The pilot effort is meant to begin to create the concrete connections of company data that will be reported to meet the needs of both initiatives.
 - The group discussed the intrinsic nature of Section 1504 to the USEITI process and its equivalence to implementing legislation. As such, should 1504 be undone, USEITI would not have a path forward to implementation and validation.
 - Consider combining ONRR rents and bonuses in the pilot template.
 - Consider combining other revenues, offshore inspection fees, civil penalties
 - Additional BLM revenue?
 - Add a Beneficial Ownership "page" per the road map for non-publicly traded companies.
 - Add under signatory box the signatory organization (executive) per §1504 regulations.
 - Project level reporting would be included in the template in 2018, in a stepped fashion.
 - The current template would not ask for foreign payments but the §1504 regulations do require that.
 - The template will need to have a caveat that this data is unilateral, voluntary reporting by companies and may not be consistent with other data sets.
- Discuss proposed outreach to companies for voluntary reporting, through what means, and for what intent (see below for further detail).
- Further define the IA TOR.
- Decide on existing reconciliation approach for 2017.
 - *Subcommittee recommendation:* Do not reconcile via IA as in 2015 and 2016. Expend resources to align existing audit and assurance processes with EITI Intl Standard Section 4.9, including using mainstreaming feasibility report and work of Reconciliation Work Group.

- *Risk:* audit and assurance cross-walk and alignment with Section 4.9 identifies gaps to address and there will be no “IA reconciled” data for the 2017 report and 2018 April validation.

Activities Needed after the February MSG

- Continue work to align audit and assurance processes with Section 4.9 of the EITI Standard
- Detail how to explain through illustrations, explanations, and other means why mainstreaming reconciliation via audit and assurance processes is appropriate in the 2017 report.
- Engage with SEC about assisting in creating jointly the SEC reporting template for §1504 (likely Spring timeframe). The group recognized that the power of the template would ultimately be if SEC takes it up and uses and/or requires it. Ultimately, once §1504 reporting begins, companies will only want one form and the SEC and its authority will be whom companies will most likely respond to (i.e., the DOI EITI form may merge with the SEC one by 2019).
- Reach out to targeted universe companies to encourage voluntary reporting (see below).
- Consider existing laws and reporting of data required by statutes complementary to Section 1504. This could include review of disclosures collected in the Natural Resource Governance Institute's Resource Project database.
- *Materiality:* the US EITI materiality threshold would drop for DOI revenues to the de minimus \$100,000 (unilateral disclosure) and there would be no margins of variance, at least outside the standard DOI audit process under review now. Taxes would not have an official materiality threshold until §1504 reporting begins. Once §1504 reporting begins, the de-facto materiality standard for taxes would be all publicly traded companies who report to the SEC that meet the basic de minimus reporting threshold outlined in §1504 regulations¹.

Draft Outreach Approach

- The group agreed that for targeted, measurable outreach in 2017 (and likely 2018) during the transition to §1504, the goal would be to identify the top/largest X# companies extracting each of the 6 in-scope commodities by total revenue, production, or other means, and through a combination of IA communications and industry/CSO outreach, encourage and support voluntary reporting.
- While outreach will be targeted, all companies who currently have data unilaterally disclosed would be able to voluntarily report if they wished to do so.
- If this conceptual approach is approved at the February meeting, two things will then need to occur; 1) the Implementation Subcommittee will need to develop the outreach target metrics of

¹ SEC Rules:

Companies are required to disclose all payments that are “not de minimis.”

“Not de minimis” means “any payment, whether made as a single payment or a series of related payments, which equals or exceeds \$100,000 during the most recent fiscal year.”

See SEC Final Rule, June 2016, p. 26. <https://www.sec.gov/rules/final/2016/34-78167.pdf>

number of companies and the means to determine “size” or “top.”; 2) the Communications Subcommittee will then develop an outreach plan.

- It is expected outreach on this interim/transition approach toward 2019 will involve a webinar for companies, speaking at various conferences like COPAS, and IA communications to companies identified for outreach.
- The timeline for company reporting requires the MSG to approve the template in concept and draft final at the February MSG meeting; outreach to begin in the spring; and the voluntary reporting period to run from May 2017 to early September 2017.

The Rationale for Voluntary Reporting

The group discussed the rationales for why companies would voluntary report under this new, interim, transitional approach until reporting begins under §1504. The ideas are below:

- Help be a part of shaping the ultimate reporting framework for §1504 by participating in our pilot voluntary reporting.
- Highlight your contributions to the U.S. Government and the value you provide to the U.S. economy, taxpayers, and federal revenues.
- Supplement your other public disclosures of your contributions to the U.S. Treasury through voluntary reporting to the USEITI Data Portal
- For those who participated in the past, this will be a much simpler approach that does not require reconciliation.
- Consider this a tool in good corporate governance, risk management, and social license to operate.